

**COOPERATIVE AGREEMENT  
(V-00F10501-0)  
KDHE Treece KS Relocation & Buyout  
Tar Creek Superfund Site Relocation Assistance Zone  
KDHE ISL # C3-011-72724**

**QUARTERLY – PROJECT PERIOD  
10/1/2013 through 12/31/2013**

**Submitted to: US EPA Region VI**

**Date: February 17, 2014**

**Submitted by: Kansas Department of Health and Environment  
Bureau of Environmental Remediation**

## **I. BACKGROUND:**

Treece, Kansas is immediately adjacent to the Tar Creek Superfund Site which encompasses the Oklahoma portion of the historic Tri-State Mining District, where lead and zinc were mined in underground drifts and milled at the surface from about 1900 to 1960's. When mining ceased, huge volumes of mining waste, including chat and mill tailings, were left on the surface. These wastes contain elevated concentrations of lead and zinc and contributed to elevated blood lead concentrations in approximately 33% of area children. Approximately 300 miles of underground mine tunnels underlie the Oklahoma portion of the District. More than 1,320 mine shafts and thousands of exploratory boreholes, air vents were abandoned. Since mining ceased, subsidence has occurred in several areas due both to roof collapse and erosion of mine shafts, and as the mine pool filled with water, the oxidation of exposed minerals generated acidic mine water that has severely impacted the Boone aquifer and in 1979, acid mine water began flowing into surface waters, severely impacting surface water quality.

The Tar Creek area covers approximately 40 square miles in far northeastern Oklahoma and affects the towns of Quapaw, Commerce, Picher, North Miami and Cardin. Much of the land at the site is allotted Indian Land (members of the Quapaw tribe are the beneficial owners) that is managed by the Bureau of Indian Affairs. Communities directly involved in the buyout are Cardin, Picher, and Hockerville and surrounding rural properties.

In June 2004, the State of Oklahoma established a local trust to oversee the relocation of families with children less than seven years of age, from the area surrounding the towns of Picher and Cardin. Fifty-one families were relocated under this program. The mission of this trust was expanded under Oklahoma law (7A O.S. Supp.2006, sections 2201 et seq.) in 2006 with the commitment by Congress of additional federal funds (\$18.9 million). The trust is now in the process of conducting a voluntary relocation of the residents and businesses in Picher, Cardin, and Hockerville. The 2004 state funds and the 2006 federal funds were not sufficient to provide relocation for all residences and business in the area that was identified by the trust as eligible for relocation.

In developing the proposed plan for OU4 at the Tar Creek Superfund Site, EPA considered relocation of residents living in Picher, Cardin, and Hockerville. EPA considered relocation because, in order to maintain protectiveness, the remedial alternatives evaluated in the proposed plan would generally require certain property restrictions that some members of the communities may consider undesirable. These property restrictions may include barricading of streets for months at a time, disconnecting residential utilities for extensive periods, and the use of earthmoving equipment and heavy trucks in residential areas. Additionally, the residents may be impacted by dust from the moving of chat. Permanent relocation might address the inconvenience associated with these activities; however, under the Uniform Relocation Act (URA) and its implementing regulations, permanent relocation would have required considerable time and expense. As part of its OU4 Proposed Plan (July 24, 2007), EPA considered relocation as a possible alternative. Alternative 5 was EPA's relocation alternative under the Proposed Plan, and it was rejected because it was not found to be cost-effective.

On November 8, 2007, the Water Resources Development Act of 2007 (WRDA Public Law 110-114) became law. Section 3135 of WRDA is specific to Ottawa County, Oklahoma and states:

(e) Consideration of Remedial Action – The Administrator of the Environmental Protection Agency shall consider, without delay, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) for the Tar Creek, Oklahoma, National Priorities List site that includes permanent relocation of residents consistent with the program currently being administered by the State of Oklahoma. Such relocation shall not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(f) Estimating Costs – In estimating and comparing the cost of a remedial alternative for the Tar Creek Oklahoma, National Priorities List site that includes the permanent relocation of residents, the Administrator shall not include the cost of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

WRDA eliminates the constraints of the Uniform Relocation Act, enabling EPA to undertake or fund relocation much more efficiently. As it prepared this ROD, EPA reconsidered relocation in light of this development, based on the most recent information available from the LICRA Trust. EPA has now determined that relocation is cost-effective and provides the best balance of trade-offs among the remedial alternatives considered. Relocation is included in the OU4 ROD.

On October 29, 2009, H.R. 2996: Department of the Interior, Environment, and Related Agencies Appropriations Action, 2010 became Public Law 111-88. Section 430 of Public Law 111-88 encouraged EPA to consider all appropriate criteria relating to the buyout and relocation of residents of properties in Treece, Kansas. On February 12, 2010, EPA issued a Draft Explanation of Significant Difference for the February 2008 Tar Creek OU4 ROD to offer relocation to the residents of Treece, Kansas, as part of its remedy for OU4 of the Tar Creek Site. This relocation includes both residential and business properties

II. ESTABLISHED BASELINE FOR MEASUREMENT:

**Activity: GENERAL PROGRAM MANAGEMENT AND SUPERVISION**

**Buyout Efforts:** Once the TRA Trust is established and the by-laws and business rules are developed, the TRA Trust will negotiate the voluntary buy out and relocation of occupants of approximately 77 plus properties in the affected area including Treece, Kansas in accordance with an Agreement between KDHE and the TRA Trust. The remaining amount of the \$3.5 million budget will be provided to KDHE to:

- Process applications for relocation assistance, including prioritization for Trust expenditures from residential and commercial renters and residential and commercial property owners in accordance with KSA 49-514 and 516.
- Priority will be given to those who have resided in Treece since before March 13, 2006.
- Costs incurred by the State to offset the cost-share requirements will be verified by KDHE and will be submitted to EPA in accordance with regulations provided in 40 CFR Part 35 Subpart O, "CAs and SSCs for Superfund Response Actions" The amount of credit will be limited to the site specific expenses that EPA determines to be reasonable, documented direct activities or out-of pocket expenditures that have not been reimbursed previously by KDHE or EPA.
- Complete voluntary relocation of the interested parties for residential and commercial properties.
- Facilitate demolition activities for structures remaining on approved properties.
- Place deed restrictions or related actions on properties secured as part of the buyout efforts.

Acquire, hold and dispose of properties as specified in KSA 49-512.

**Projected Environmental Improvement**

These actions will meet the requirements of the ROD for Tar Creek Superfund Site OU-4 Environmental Results under EPA Assistance Agreements. The work proposed in this plan is within EPA's strategic goal #3, Land Preservation and Restoration, and meets the strategic sub-objective 3.3.2, Clean-up and Reuse Contaminated Land, via the remediation of mining wastes.

The project is expected to yield short, intermediate, and long-term outcomes. All outcomes are achieved by the remediation of mine waste. The health of young children and ecological receptors, with regard to exposure to mining wastes, is immediately protected and the contaminated materials are immediately removed as a result of the action (short-term results). Historically elevated blood lead levels in children and levels of heavy metals in ecological receptors will begin to decrease and the re-vegetated mine waste areas will begin to become established (intermediate-term results). The completed remedial actions will be devoid of mine waste at the surface and remain under control in the future and human blood lead levels as well as levels of heavy metals in ecological receptors will continue to be lowered over time (long-term results).

### III. WORK PLAN ACTIVITIES:

Tasks – Activity	Timeframe for Accomplishment	Results of Tasks/Activities (Outputs)
<p><b><u>TRA Trust Setup:</u></b> The TRA Trust will be developed to provide for administrative tasks and duties to initiate the buyout and relocation of residents and/or demolition and/or relocation of houses, businesses, and public use structures. The tasks and duties will be conducted in areas in Treece, Kansas and related to the Tar Creek Superfund Site. A proportional amount of the \$3,888,888 budget will be provided to KDHE to:</p> <ul style="list-style-type: none"> <li>• Assist in the formation of the Treece Relocation Assistance (TRA) Trust for the buyout/relocation of qualified residents in the affected area per KSA 49-512.</li> <li>• Fund a Relocation Program Manager, who will work with the TRA Trust on project administration, environmental assessment and financial appraisal of structures prior to disposition, as well as contractor oversight, and agency reporting requirements. The bulk of the day to day operations will be performed by this position.</li> <li>• Fund such other clerical, professional, legal and technical assistance as may be deemed necessary to the TRA Trust. The Trustees may fund such agents and employees as they deem necessary, proper or convenient for the execution of the purposes of the TRA Trust, and prescribe their duties and fix their compensation. All Trustees shall serve without compensation but shall be paid for expenses incurred in the performance of their duties as referenced in K.S.A. 49-512.</li> <li>• To develop and implement a “By-Laws” document for the administration and regulation of the affairs of the TRA Trust.</li> <li>• To develop documents necessary to facilitate acceptance of applications for relocation assistance.</li> <li>• To secure facilities and/or services of any and /or all kinds necessary (to include record-keeping of financial records) or convenient for the functioning of the TRA Trust,</li> </ul>	<p>6 months or less</p> <p><i>Tasks were completed during the May-September 2010 reporting period.</i></p>	<p>KDHE’s program manager has been given authority for the state to assist the setup and development of the Treece Relocation Assistance Trust. They will provide documentation that the TRA Trust setup has been completed. If a variance to the plan is needed, KDHE will document the request for variance in writing and supply that information to the EPA for approval.</p>
<p><b>REPORTING:</b></p> <ul style="list-style-type: none"> <li>• As a reminder: KDHE is serving as the Trust’s Program Operations staff per the approved Program Plan. Overall the Trust setup task has been completed.</li> </ul>		

Tasks – Activity – Program Management	Timeframe for Accomplishment	Results of Tasks/Activities (Outputs)
<p><b><u>Buyout Efforts:</u></b> Once the TRA Trust is established and the by-laws and business rules are developed, the TRA Trust will negotiate the voluntary buy out and relocation of occupants of approximately 77 plus properties in the affected area including Treece, Kansas in accordance with an Agreement between KDHE and the TRA Trust. The remaining amount of the \$3.5 million budget will be provided to KDHE to:</p> <ul style="list-style-type: none"> <li>• Process applications for relocation assistance, including prioritization for Trust expenditures from residential and commercial renters and residential and commercial property owners in accordance with KSA 49-514 and 516.</li> <li>• Priority will be given to those who have resided in Treece since before March 13, 2006.</li> <li>• Costs incurred by the State to offset the cost-share requirements will be verified by KDHE and will be submitted to EPA in accordance with regulations provided in 40 CFR Part 35 Subpart O, “CAs and SSCs for Superfund Response Actions” The amount of credit will be limited to the site specific expenses that EPA determines to be reasonable, documented direct activities or out-of-pocket expenditures that have not been reimbursed previously by KDHE or EPA.</li> <li>• Complete voluntary relocation of the interested parties for residential and commercial properties.</li> <li>• Facilitate demolition activities for structures remaining on approved properties.</li> <li>• Place deed restrictions or related actions on properties secured as part of the buyout efforts.</li> </ul> <p>Acquire, hold and dispose of properties as specified in KSA 49-512.</p>	<p>Approx. 3 years</p>	<p>KDHE’s program manager has been given authority for the state to oversee the administration of the Treece Relocation Assistance Trust. They will provide documentation that the program is progressing as planned. If a variance to the plan is needed, KDHE will document the request for variance in writing and supply that information to the EPA for approval.</p>

## REPORTING:

### October - December 2013 Reporting Period

- Public meetings hosted: None
- Trustee meetings hosted: Two total – October 3rd and November 21st.
- Resident Availability Sessions: None in this quarter.
- Phase I Applications (75 total offers): No applications were received in this reporting period. 73 offers have been accepted to date.
- Phase II Approved Applications (53 offers to date): No Phase II offers have been accepted in the reporting period - 51 offers have been accepted to date.
- Phase III application (Hwy 69 Properties) – (5 total offers). No new offers were accepted in this reporting period. 4 offers have been accepted to date. 1 residential, 1 residential renter, 1 non-residential, and 1 storage structures (includes vacant buildings), 0 vacant lot.
- December 2013 County Tax Sale: 3 vacant lot property purchases were finalized within the city limits. Two had partial purchases, but with deed transfer issues. Cherokee County held a special tax sale on December 16, 2013 for the final 3 properties. The Trust purchased the properties at the tax sale and will receive a Sheriff's Deed upon completion of the paperwork.
- Number of appraisals completed during the reporting period: None
- Properties purchased during reporting period: Three properties were purchased in this reporting period. 120 total purchases/relocation agreements to date.
- Rental Assistance: None in this reporting period. 12 renters were provided rental assistance to date.
- Structure Auctions: None in this reporting period.
- Environment Use Control (EUC) – No new EUCs were recorded in the reporting period. Ten total EUCs have been recorded to date.
- Household Hazardous Waste – None in the reporting period.
- Treece Relocation Assistance Program web page updates by KDHE. [www.kdheks.gov/treece](http://www.kdheks.gov/treece)
- Information Kiosk updates by KDHE and City of Treece staff. Information included in the kiosk for application requirements and future meeting dates. Kiosk was stolen in late August 2011. Due to substantial completion of residents moving from town, the kiosk was not replaced.
- Two successive no-cost amendments were previously approved for the cooperative agreement extending the end date from June 30, 2012 to June 30, 2014.
- See attached tables for state and TRA Trust expenditures.
- **Note:** KDHE personnel are serving as the operations program and project managers for the project; therefore the KDHE personnel budget maximum of \$68,425 and fringe benefits maximum of \$19,262 will be increased to account for the additional KDHE personnel salary and fringes. The Trust is saving contract amounts by not hiring an independent Operations Manager.

**Attachment I - Summary of the KDHE Treece, KS Relocation and Buyout Cooperative Agreement Budget:**

Cooperative Agreement Number : V00F10501											
Project End Date: 06/30/2014											
Period Ending : 12/31/13											
<b>FEDERAL BUDGET</b>											
	Fed Budget	Exp To Date	3/31/10 – 6/30/11	7/1/11 – 6/30/12	7/1/12 – 6/30/13	7/1/13- 9/30/13	10/1/13- 12/31/13			% Exp	Remaining
Personnel		100,516	5,463	58,695	25,198	5,664	5,496				-100,516
Fringe Benefits		28,714	1,541	16,555	7,106	1,680	1,832				-28,714
Travel		3,418	426	1,721	947	111	213				-3,418
Equipment			0								0
Supplies		5,705	0	3,520	1540	140	505				-5,705
Contractual			0								0
Other	3,500,000	3,053,567	2,323,937	723,908	5,455	27	240			87%	446,433
Total Direct	3,500,000	3,191,920	2,330,467	804,399	40,246	7,622	8,286			91%	308,080
Indirects (21.4%)		27,010	0	16,958	7,204	1,365	1,483				-27,010
TOTAL	3,500,000	3,218,930	2,330,467	821,357	47,450	8,987	9,769			92%	281,070

Cooperative Agreement Number : V00F10501											
Project End Date: 06/30/2014											
Period Ending : 12/31/13											
<b>STATE BUDGET</b>											
	State Budget	Exp To Date	3/31/10 – 6/30/11	7/1/11 – 6/30/12	7/1/12 – 6/30/13	7/1/13- 9/30/13	10/1/13- 12/31/13				Remaining
Personnel*	68,425	92,577	92,577	0	0	0	0			135%	-24,152
Fringe Benefits*	19,262	26,111	26,111	0	0	0	0			136%	-6,849
Travel	20,825	8,371	8,371	0	0	0	0			40%	12,454
Equipment				0	0	0	0				0
Supplies	4,002	2,676	2,676	0	0	0	0			67%	1,326
Contractual	19,997			0	0	0	0			0%	19,997
Other	228,493	252,483	252,483	0	0	0	0			110%	-23,990
Total Direct	361,004	382,218	382,218	0	0	0	0			106%	-21,214
Indirects (21.4%)	27,884	6,670	6,670	0	0	0	0				21,214
TOTAL	388,888	388,888	388,888	0	0	0	0			100%	0



Cooperative Agreement: TREECE RELOCATION & BUYOUT CA Cooperative Agreement Number : V00F10501 Project End Date: 06/30/2014 Period Ending : 12/31/13 <b>TRA TRUST EXPENDITURES</b> *See State Personnel and Fringes under State Budget									
		3/31/10 – 6/30/11	7/1/11 – 6/30/12	7/1/12 – 6/30/13	7/1/13- 9/30/13	10/1/13- 12/31/13			Accumulative
Trustee Per Diem		13,393	9,603	4,633	674	674			28,975
Demolition & Restoration			270,497	26,814		1,500			298,811
Account admin.: Accountant, Bank, etc.		2,250	2,724	2,703	675	450			8803
Contract - Auctioneer		3,500	4,349						7,849
Supplies		0	0						0
Contracts – Services		116,687	79,507	15,128		3,345			214,668
Contract - Legal Srv.		6,037	17,864	25,694	7649				57,243
Property Purchase		2,379,241	298,440	212		7,480			2,685,372
Other		781	41,444	60	5056				47,341
Office Expense/Postage		1,091	532	485	2	4			2,113
Rent PO Box		142	35	113					290
Taxes - Payroll		1,602	1,077	540	79	78			3,376
Utility Capping		72	4,043						4,115
<b>TRA Trust Total Expenses =</b>		2,524,796	730,115	76,382	14,135	13,531			3,345,425